

EXHIBIT “H” (3 of 4)

1 DONNY A. SINKOV

2 paraphernalia, a small amount of heroin, and \$300 that
3 Spencer had with him.

4 Q. Anything else said?

5 A. Not that I can recall.

6 Q. Did you have conversations with any other law
7 enforcement people that evening at that location?

8 A. No, I did not.

9 Q. Did detectives indicate whether anybody else
10 had been arrested along with Spencer?

11 A. They did not.

12 Q. Did you ask any further questions as to why he
13 was arrested?

14 A. No.

15 Q. How long were you at that location for?

16 A. Just a few minutes.

17 Q. Where did you go from there?

18 A. We went home.

19 Q. When was the next time that you spoke with
20 someone concerning Spencer's arrest?

21 A. The next morning.

22 Q. About what time was that?

23 A. Prior to us visiting with him. I don't know
24 the exact time.

25 Q. Was that a conversation on the telephone?

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2 A. Yes, it was.

3 Q. Who did you speak to?

4 A. We called -- I called the Putnam County
5 Sheriff's Department and asked them what the number was
6 for the correctional facility. I then called the
7 correctional facility -- or I'm not sure if I called or
8 they transferred me to the correctional facility. I
9 spoke to somebody there, and they said that he was in
10 their custody.

11 Q. Do you know who you spoke with?

12 A. No, I don't.

13 Q. Did you say anything else during that
14 conversation?

15 A. I asked when we could see him.

16 Q. What was the response?

17 A. They told me what time of day we could see
18 him, and we proceeded to go there to visit with him.

19 Q. That same day?

20 A. Yes.

21 Q. Approximately how much time was it after that
22 telephone call that you went to see him?

23 A. An hour or two.

24 Q. And you went to the Putnam County Jail, the
25 correctional facility?

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2 A. Yes.

3 Q. Did you see Spencer at that time?

4 A. Yes, we did.

5 Q. Where was it that you saw him?

6 A. Where inmates and visitors visit.

7 Q. Did you speak to any of the people that work
8 at the correctional facility about Spencer before you
9 saw Spencer?

10 A. Upon entering, the guard at the booth said
11 that only two of us would be allowed to see him, and
12 there was a female prison guard outside the booth
13 immediately to my right, next to the metal detector, and
14 she said to please let all three of us go in. And that
15 was the extent of the conversation before we entered the
16 visiting room.

17 Q. With you was your wife and Trevor?

18 A. That's correct.

19 Q. Had you spoken to any of the detectives
20 concerning Spencer's arrest before you went to see
21 Spencer?

22 A. No, we did not -- or no, I did not.

23 Q. Do you know whether your wife did or not?

24 A. I don't know.

25 Q. Did she ever indicate to you that she had

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2 spoken to somebody?

3 A. She has not.

4 Q. When you met with Spencer, how was he dressed?

5 A. He had an undershirt on, a sweatshirt on, and
6 a jumpsuit on.

7 Q. Did you meet with him in an enclosed room or
8 in the open area?

9 A. I'm not sure how to answer that question. I
10 think it was both, actually.

11 Q. Right. In the room that you met with Spencer,
12 did they have other smaller rooms along one wall?

13 A. Yes, they did.

14 Q. You were not in one of those rooms; correct?

15 A. No. We were seated at some seating where it
16 was kind of a serpentine counter, where he was on one
17 side and we were on the other.

18 Q. How long did you meet with him for?

19 A. The visit was limited to 15 minutes.

20 Q. Did you have a conversation with him during
21 the 15 minutes?

22 A. Yes, I did.

23 Q. The best you recall, can you tell me
24 everything that was said during that conversation?

25 A. I asked him how he was. And he said he was

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1
2 going through heroin withdrawal. I asked him how bad it
3 was. And he said that it wasn't that bad yet but he was
4 experiencing the symptoms. I asked him if he was abused
5 by any of the guards or the other inmates, and he said
6 no. I told him that we would get a private attorney for
7 him to represent him. He said that he was told that a
8 public defender would be appointed to him. He said that
9 the detectives told him that he would be in jail for 25
10 years.

11 He looked pale with dark circles under his
12 eyes. He looked like he might have had some
13 perspiration on his forehead. Trevor leaned over to me
14 and said, "What about Methadone?" And I asked the
15 prison guard who was present, "Can Spencer be given
16 Methadone for his heroin addiction?" And the guard
17 responded, "We don't do that here." Then I asked if he
18 could be given some kind of medical attention for his
19 addiction, and the guard responded that Spencer could
20 not receive any treatment for five days until he was
21 classified.

22 Q. Do you know the name of that prison guard that
23 you spoke to?

24 A. No, I don't.

25 Q. Have you ever spoken to him since that day?

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2 A. No, I have not.

3 Q. Did you have any other conversations with the
4 prison guard that day?

5 A. No, I did not.

6 Q. Was anything else said during the meeting with
7 Spencer?

8 A. Are you asking if I said anything else?

9 Q. Yes. Did you say anything else?

10 A. I don't recall anything else that I might have
11 said.

12 Q. Do you recall your wife saying anything?

13 A. I do recall her having some conversation with
14 Spencer, but as to what was said, I don't recall.

15 Q. What about Trevor? Did he say anything?

16 A. Other than him asking if Spencer could be
17 given Methadone for his heroin addiction, I don't
18 remember anything else he might have said.

19 Q. Do you recall anything else that Spencer said
20 during that time period?

21 A. No, I don't.

22 Q. Did Spencer ever express to you that he had
23 suicidal thoughts during that time that you saw him?

24 A. No, he did not.

25 Q. That meeting lasted about 15 minutes?

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2 A. Yes.

3 Q. After you were finished speaking with Spencer,
4 did you then leave the correctional facility?

5 A. Yes, I did.

6 Q. Did you have any other conversations with
7 anyone else at the correctional facility before you
8 left?

9 A. No, I did not.

10 Q. Do you know whether your wife did?

11 A. I don't believe she did.

12 Q. What about Trevor?

13 A. I don't believe he did.

14 Q. When was the next time that you had any
15 conversations with anyone concerning Spencer?

16 A. I called -- as soon as we got home from
17 visiting with Spencer, I called my attorney, but it was
18 on a Saturday and I couldn't reach him, so I left a
19 message on his answering machine that we needed his
20 help.

21 Q. Who was that attorney?

22 A. Harold Hinz, H-I-N-Z.

23 Q. Did Mr. Hinz get back to you that day?

24 A. He did not.

25 Q. Do you know what time it was when you left the

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2 correctional facility?

3 A. Not exactly.

4 Q. Do you have an estimate as to the time?

5 A. Sometime between 11:45 and 12:00,
6 approximately.

7 Q. After leaving that message for Mr. Hinz, did
8 you have any further conversations with anyone
9 concerning Spencer?

10 A. Yes.

11 Q. When was the next one?

12 A. At around 3:00 two detectives came to our
13 home.

14 Q. Do you know who they were?

15 A. They were Detectives Porteus, P-O-R-T-E-U-S,
16 and Ferris.

17 Q. The same Ferris from the night before?

18 A. Yes.

19 Q. Had you ever met Porteus before?

20 A. No, I did not.

21 Q. What was said?

22 A. Detective Ferris said he had some bad news for
23 us. He said that Spencer had committed suicide by
24 hanging himself.

25 Q. Did he say anything else?

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2 A. He said he was sorry. And he said when he
3 heard the news about Spencer's death, he said that he
4 hoped to God that it wasn't that kid he had brought in
5 the night before.

6 Q. Did you say anything to them?

7 A. I don't recall exactly what I said.

8 Q. Do you recall if they said anything else to
9 you?

10 A. I don't recall.

11 Q. Was your wife at home at that time?

12 A. Yes, she was.

13 Q. What about Trevor?

14 A. I'm not sure about Trevor.

15 Q. After that did you have any further
16 conversations with anyone from the Sheriff's Department
17 or the correctional facility about Spencer?

18 A. Yes.

19 Q. When was the next time?

20 A. At Spencer's funeral.

21 Q. Who did you speak to?

22 A. The funeral director said that the Sheriff was
23 on the phone and he wanted to speak with us and he
24 wanted to come by the funeral home. I didn't speak to
25 him directly, but we had called before the funeral to

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2 get Spencer's belongings and there was some problem with
3 getting them, so we asked if we could have them brought
4 to us.

5 Q. So you didn't actually speak to the Sheriff?

6 A. I did not.

7 Q. Did somebody bring his belongings to you?

8 A. Yes.

9 Q. At the funeral?

10 A. Yes.

11 Q. Do you know who did that?

12 A. I believe it was Detective Porteus.

13 Q. Did you have any conversations with Detective
14 Porteus at the funeral?

15 A. No. Only -- let me change that or amend that.
16 He asked me to sign a release form for the belongings in
17 a cardboard box. I signed the form and gave it back to
18 him. He gave me a copy. I gave him his copy. We
19 didn't say anything else.

20 Q. Since that time, have you had any
21 conversations with any members of the Sheriff's
22 Department or the correctional facility about Spencer?

23 A. Not conversations. Only communications.

24 Q. Who did you communicate with?

25 A. I submitted FOIA requests.

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2 Q. Besides submitting the FOIA requests, were
3 there communications with anyone at the Sheriff's
4 Department?

5 A. No.

6 Q. What about at the correctional facility?

7 A. No.

8 Q. Even up until this day, you have had no
9 conversations with anyone else from the Sheriff's
10 Department or the correctional facility?

11 A. No, I haven't.

12 Q. Do you know if your wife has?

13 A. I don't know.

14 Q. Did she ever tell you that she did?

15 A. She has not.

16 Q. Since Spencer's death, have you come to learn
17 that there were other people arrested with him?

18 A. I think he was alone when he was arrested.

19 Q. Did you ever speak to anyone else who was an
20 inmate at the correctional facility at the time that
21 Spencer was there?

22 A. Yes, I did.

23 Q. Who did you speak to?

24 A. Robert Thompson.

25 Q. Anyone else?

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2 A. No.

3 Q. When for the first time did you speak to
4 Robert Thompson?

5 A. After Spencer's death.

6 Q. Was it after the funeral also?

7 A. Yes, it was.

8 Q. Under what circumstances did you speak to
9 Mr. Thompson?

10 A. He sent me a letter saying that he was very
11 sorry to hear about Spencer and that he had known
12 Spencer.

13 Q. Did you speak to Mr. Thompson after you
14 received the letter?

15 A. Yes.

16 Q. Was it in person or by telephone?

17 A. In person.

18 Q. Was anyone else present?

19 A. Yes.

20 Q. Who else was present?

21 A. My son Trevor.

22 Q. Where did you see Mr. Thompson?

23 A. At the Putnam County Correctional Facility.

24 Q. He was still in the facility when you saw him?

25 A. Yes, he was.

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2 Q. Did you have a conversation with him?

3 A. Yes, I did.

4 Q. What was said?

5 A. He said that the night he was arrested was the
6 same night Spencer was arrested and it was by the same
7 detectives and that Spencer and Robert Thompson was
8 questioned by the detectives in separate rooms, but at
9 some point during the questioning, the detectives came
10 in and spoke to Mr. Thompson about Spencer and asked if
11 he was a drug user because he appeared to be intoxicated
12 and they wanted to know if they needed to watch out for
13 him.

14 Q. Did Mr. Thompson indicate that these
15 conversations he was telling you about, did they occur
16 at the correctional facility or some other location?

17 A. Yes, at the facility.

18 Q. Did Mr. Thompson say anything else to you
19 during that meeting?

20 A. Yes. He said that he told the detectives in
21 response to their question that they better watch out
22 for Spencer.

23 Q. Anything else that you recall being said
24 during the meeting?

25 A. Mr. Thompson said that they physically

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2 threatened him.

3 Q. Threatened Mr. Thompson?

4 A. That the detectives threatened him.

5 Q. Not Spencer, though, threatened Mr. Thompson,
6 I mean?

7 A. Yes. Mr. Thompson told me that the
8 detectives, while they were questioning Mr. Thompson,
9 threatened him with physical harm.

10 Q. Did he say that they harmed him in any way?

11 A. He didn't say.

12 Q. Did Mr. Thompson discuss with you any of the
13 facts and circumstances surrounding Spencer's arrest?

14 A. No.

15 Q. Did you ask him any questions about that?

16 A. I asked him what he knew.

17 Q. What did he say?

18 A. He said he wasn't there when Spencer was
19 arrested and he didn't know.

20 Q. Have you spoken to Mr. Thompson since that
21 time?

22 A. Yes. On one occasion.

23 Q. When was that?

24 A. I went to his house.

25 Q. Do you recall when that was?

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2 A. Not exactly, no.

3 Q. Do you know what year?

4 A. It was after I spoke to him at the facility,
5 so I believe it was still in 2006.

6 Q. Where does he live?

7 A. At the time he was living in his parents' home
8 in Lake Peekskill.

9 Q. Did anybody else go with you to speak to him?

10 A. Yes.

11 Q. Who else went?

12 A. My son Trevor.

13 Q. Was anyone else present when you met with him?

14 A. His father was there, but not for the
15 conversation.

16 Q. What was said during the conversation?

17 A. I asked him if he could tell me what happened,
18 and he said that as far as he knew, there was a
19 confidential informant that was arrested by the Putnam
20 County police, and in exchange for her being given a
21 lesser sentence, she was asked to point out anybody that
22 was using heroin in the area.

23 Q. Did he tell you anything else?

24 A. He said that there was a sting operation set
25 up and that he was involved with it -- he didn't say

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2 exactly to what extent he was involved -- but that he
3 sold drugs to an undercover detective.

4 Q. Did he tell you whether or not Spencer was
5 involved in that?

6 A. I'm not sure what you mean by "involved."

7 Q. Involved in selling drugs.

8 A. No, he didn't say -- he didn't say anything
9 about Spencer's involvement in selling drugs.

10 Q. Did Mr. Thompson say anything else to you
11 during that meeting?

12 A. Not that I recall -- oh, wait a minute. Let
13 me back up a little bit. He said that as part -- as his
14 sentence, he was given -- for whatever the charges were
15 against him, he was given two months in the Putnam
16 County Correctional Facility and five years' probation.

17 Q. Did he say anything else?

18 A. Not that I can recall.

19 Q. Have you spoken to him since that time?

20 A. No, I have not.

21 Q. Have you had any communications with him since
22 that time?

23 A. No, I have not.

24 Q. Did you ever speak to any other inmates who
25 were in the facility at the same time Spencer was?

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2 A. No, I did not.

3 Q. Did you receive any correspondence from anyone
4 else who indicated they were an inmate when Spencer was?

5 A. I did not, no.

6 Q. Did your wife?

7 A. I don't believe so.

8 Q. Did Trevor?

9 A. No -- yes. He received a letter from Robert
10 Thompson.

11 Q. Trevor did?

12 A. Yeah. I read the letter.

13 Q. Was that a different letter than the one you
14 received?

15 A. Yes.

16 Q. Did he receive it at or about the same time?

17 A. Approximately, yes.

18 Q. Do you still have those letters?

19 A. I don't know.

20 Q. What was in the letter that Mr. Thompson sent
21 to Trevor?

22 A. Just that he realized he made some mistakes
23 and he was going to try to straighten himself out and,
24 you know, stay away from the kind of people he had
25 previously associated with and stay away from drugs and

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2 try to get a job and get himself on the straight and
3 narrow.

4 MS. BERG: Can you just give me two
5 seconds?

6 MR. RANDAZZO: Sure.

7 (Brief recess.)

8 BY MR. RANDAZZO:

9 Q. Getting back to the meeting that you had with
10 Mr. Thompson at his home, did you discuss anything about
11 Spencer at all?

12 A. No.

13 Q. Who paid for Spencer's funeral?

14 A. My wife and I did.

15 Q. Do you recall how much it was?

16 A. About \$7,000.

17 Q. Do you know Eric McCormack?

18 A. I've heard the name.

19 Q. Do you know who that is?

20 A. I was told that he was in the cell next to
21 Spencer when Spencer died.

22 Q. Have you ever spoken to him?

23 A. No, I have not.

24 Q. Who told you he was in that cell?

25 A. It was in the papers that someplace along in

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2 the investigation and the records a statement was taken
3 and Mr. McCormack said he was in the adjacent cell at
4 the time Spencer died and that he did not hear anything.

5 Q. Now, that's something you read in the papers?

6 A. Yes, I did.

7 Q. You never spoke to Mr. McCormack; correct?

8 A. I never did, no.

9 Q. Have you ever spoken to Sheriff Smith about
10 this incident involving your son?

11 A. I have not.

12 Q. What about Joseph Vasaturo?

13 A. No, I have not.

14 Q. Louis Lapolla?

15 A. No.

16 Q. Spencer was in a band also; is that right?

17 A. Yes.

18 Q. What was the name of the band that he was in?

19 A. Chromaticism. I told him to try to pick a
20 name that was a little easier to remember.

21 Q. When did he become a member in that band; do
22 you know?

23 A. He started the band with Andy Stark. They had
24 both attended Harvey and known each other from Harvey.
25 Andy's father records commercials and jingles. I think

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2 he does the sound tracks or some part of commercial
3 production and he has a recording studio in his home.
4 And he allowed the boys to use the recording studio as
5 they gathered up members of the band and created
6 original material and put the songs together and made
7 CDs at his father's recording studio. I had the CDs and
8 the songs copyrighted through the Library of Congress.

9 Q. Do you know when he started in the band?

10 A. I don't remember the year, no.

11 Q. Spencer played the bass guitar?

12 A. Yes.

13 Q. Do you know who else was in the band?

14 A. Andy Stark, Joe Scalone, and Ryan Scully.

15 Q. How many songs did you have copyrighted?

16 A. At least three.

17 Q. Do you recall the names of the songs?

18 A. Laced in Gold. I don't remember the other
19 two.

20 Q. Do you know what Spencer's involvement in the
21 songs was? Did he write the music, the lyrics, or
22 anything else?

23 A. I think he wrote -- he co-wrote with the band
24 the music and lyrics.

25 Q. Sorry?

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2 A. I think he co-wrote the music and lyrics with
3 the band.

4 Q. Those three songs that you copyrighted, were
5 they put on a CD at some point?

6 A. Yes. The Library of Congress now allows you
7 to submit a recording of the songs instead of just sheet
8 music.

9 Q. Is that what you did?

10 A. Yes. I submitted the CD with the copyright
11 papers.

12 Q. The CD had these three songs on it?

13 A. Yes, it did.

14 Q. Did it have any other songs or just those
15 three?

16 A. No, it did not. Just those three.

17 Q. Have those songs ever been sold?

18 A. No idea.

19 Q. Have you received any money from the band for
20 those songs?

21 A. I have not.

22 Q. Had the band performed anywhere that you were
23 aware of?

24 A. Yes. I think they performed in Connecticut
25 and Westchester.

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2 Q. On how many occasions?

3 A. At least two that I heard -- heard of.

4 Q. Did you attend either performance?

5 A. No, I did not.

6 Q. What type of music would you characterize it
7 as?

8 A. Contemporary music.

9 Q. Do you know where they played in Connecticut
10 and Westchester?

11 A. No, not exactly.

12 Q. Do you know if they were paid or not for those
13 appearances?

14 A. I think they were, yes.

15 Q. Do you know how much?

16 A. No, I don't.

17 Q. Do you know what year it was that they
18 appeared in Connecticut and Westchester?

19 A. I think it was 2003, 2006.

20 Q. Do you know if the band is still together?

21 A. I believe it is.

22 Q. Have you had any conversations with any of the
23 other members of the band since Spencer's death?

24 A. Yes.

25 Q. Were they conversations about Spencer or about

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2 something else?

3 A. They were about Spencer.

4 Q. Do you recall who you spoke with?

5 A. Yes.

6 Q. Who did you speak with?

7 A. Andy Stark's father, Fred Stark.

8 Q. Besides Mr. Fred Stark, did you speak to any
9 of the actual members of the band?

10 A. No, I did not.

11 Q. When did you speak to Fred Stark?

12 A. A few months ago. I asked him if he had any
13 video recordings of the band's last performance.

14 Q. Did he have any?

15 A. Yes, he did.

16 Q. Has he provided you with a copy?

17 A. Yes, he has.

18 Q. Where was that performance?

19 A. I don't know.

20 Q. Do you know when the performance was?

21 A. Not exactly.

22 Q. Was it just one performance that he gave you a
23 copy of?

24 A. Yes, it was.

25 MR. RANDAZZO: I'll just ask for a copy

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2 of that to be made.

3 MS. MARGOLIS: I join.

4 MS. BERG: Send me a letter.

5 (VIDEO RECORDING OF BAND'S LAST
6 PERFORMANCE REQUESTED BY COUNSEL.)

7 A. Just so you know when you get it, it's a very
8 poor video quality. It's very dark. And I'm trying to
9 get it enhanced, and if I do get it enhanced, then I'll
10 send you the enhanced version so you can see more
11 clearly.

12 Q. Thank you. I appreciate it. Is it in a club?
13 Do you know what the venue is?

14 A. It's in a club.

15 Q. How is the sound on it?

16 A. Not so great, but it's better than the video
17 portion.

18 MR. RANDAZZO: Can you mark this for me,
19 please.

20 (Defendants' Ex. A - COMPLAINT marked for
21 identification.)

22 BY MR. RANDAZZO:

23 Q. Mr. Sinkov, let me show you what's been marked
24 as Defendants' Exhibit A, which is a copy of the
25 Complaint you filed in this matter. Have you ever seen